

Therefore be it resolved by the Senate of the United States that the Senate, on behalf of the American people, does extend its condolences and sympathies to the families of their little children and others who were murdered and wounded, and to all the people of Scotland, with fervent hopes and prayers that such an occurrence will never, ever again take place.

## AMENDMENTS SUBMITTED

### THE 1996 BALANCED BUDGET DOWNPAYMENT ACT, II

MURRAY (AND OTHERS)  
AMENDMENT NO. 3493

Mrs. MURRAY (for herself, Mr. LEAHY, Mr. BAUCUS, Mr. BUMPERS, Mrs. FEINSTEIN, Mr. BRADLEY, Ms. MOSELEY-BRAUN, and Mrs. BOXER) proposed an amendment to amend No. 3466 proposed by Mr. HATFIELD to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

At the appropriate place, insert the following:

#### TITLE —TIMBER SALVAGE

##### SEC. 01. SHORT TITLE.

This title may be cited as the "Public Participation in Timber Salvage Act of 1996".

##### SEC. 02. VOIDING OF CONFLICTING PROVISION.

Section 325 of the Omnibus Rescissions and Appropriations Act of 1996 is void.

##### SEC. 03. FINDINGS.

Congress finds that—

(1) when events such as forest fire, wind storms, or epidemic disease or insect infestations occur, the Forest Service and the Bureau of Land Management should have available the tools necessary to harvest timber expeditiously in order to get a high commodity value from dead or dying trees;

(2) improving the health of our forests is a national priority that should be addressed through comprehensive analysis and public involvement, and should focus not only on the health of trees, but on the health of the entire forest, including watersheds, soils, fisheries, and wildlife; and

(3) timber sales, including salvage timber sales, should be conducted in accordance with all applicable laws in order to ensure the sustainability of the components and functions of the forests.

#### Subtitle A—Repeal of Emergency Salvage Timber Sale Program

##### SEC. 11. REPEAL OF EMERGENCY SALVAGE TIMBER SALE PROGRAM.

Section 2001 of Public Law 104-19 (109 Stat. 240; 16 U.S.C. 1611 note) is repealed.

##### SEC. 12. EXISTING TIMBER SALE CONTRACTS.

(a) SUSPENSION.—Notwithstanding any outstanding judicial order or administrative proceeding interpreting subsection (k) of section 2001 of Public Law 104-19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act), the Secretary of Agriculture and the Secretary of the Interior shall suspend each timber sale that the Secretary concerned determines that was being undertaken under the authority provided in the subsection.

(b) REPLACEMENT OR TERMINATION OF TIMBER SALE CONTRACTS.—

(1) IN GENERAL.—Notwithstanding any other provision of contract law, the Sec-

retary concerned shall negotiate with a purchaser of timber offered, awarded, or released pursuant to section 318 of Public Law 101-121 (103 Stat. 745) or section 2001(k) of Public Law 104-19 (109 Stat. 246; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) to modify the sale to comply with environmental and natural resources laws or to provide, within 1 year after the date of enactment of this Act (unless otherwise agreed by the Secretary and the purchaser), a volume, value, and kind of alternative timber as a replacement for the remaining timber offered, awarded, or released.

(2) ENVIRONMENTAL AND NATURAL RESOURCE LAWS.—Modified sales or replacement timber provided under paragraph (1) shall comply with—

(A) any applicable environmental or natural resource law;

(B) any resource management plan, land and resource management plan, regional guide or forest plan, including the Northwest Forest Plan and any plan developed under the Interior Columbia Basin Ecosystem Management Project; and

(C) any relevant standard or guideline, including PACFISH, INFISH, and Eastside screens, and shall be subject to administrative appeal and judicial review.

(3) TERMINATION.—If the Secretary and the purchaser do not reach agreement under paragraph (1), the Secretary concerned may—

(A) exercise any provision of the original contract that authorizes termination; or

(B) if the Secretary concerned determines that termination or modification of the contract is necessary to avoid adverse effects on the environment or natural resources, terminate or modify the contract.

(c) PAYMENT FOR TIMBER SALE CONTRACTS RELINQUISHED.—Any claim, whether as a result of a judgment or an agreement, against the Federal Government arising from a timber sale contract offered, awarded, or released under section 318 of Public Law 101-121 (103 Stat. 745), from section 2001(k) of Public Law 104-19 (109 Stat. 246; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act), from this Act, or from the exercise of the Secretary's right to suspend, modify, or terminate the contract may be—

(1) paid from funds made available under section 1304 of title 31, United States Code, and shall not require reimbursement under section 13(c) of the Contract Disputes Act of 1978 (41 U.S.C. 612(c));

(2) paid through a certificate of bidding rights credits to be used by the purchaser (or a successor or assign of the purchaser) as payment for past, current or future timber sales; or

(3) paid through funds appropriated for the purpose.

(d) REPAYMENT OF GOVERNMENT GUARANTEED LOANS.—The Secretary may repay any government-guaranteed loan related to a timber processing facility.

(e) NEGOTIATIONS BETWEEN THE SECRETARY CONCERNED AND THE PURCHASER.—The Secretary concerned and the timber sale purchaser may use any combination of methods provided in subsections (b) and (c) or other authorized means to dispose of a timber sale contract under this section.

(f) DISPUTES.—Any claim by a purchaser against the Federal Government relating to a contract replaced, modified, suspended, or terminated under this section shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) except that reimbursement under section 13(c) of that Act is not required.

(g) FUNDING.—The Secretary concerned shall pay purchasers for agreements nego-

tiated in this subsection from any funds available to the Secretary.

##### SEC. 13. SALES INITIATED UNDER EXISTING LAW.

(a) IN GENERAL.—A sale initiated but not awarded to a purchaser by the Forest Service or the Bureau of Land Management under subsection (b) or (d) of section 2001 of Public Law 104-19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) as of March 5, 1996, shall be subject to all environmental and natural resource laws. The Secretary concerned may elect to proceed with sales initiated under subsection (b) of section 2001 of Public Law 104-19 either under the provisions of subtitle C of this Act or other applicable law authorizing the Secretary concerned to conduct salvage timber sales. *Provided however*, that if, prior to enactment to this Act, an environmental assessment or environmental impact statement has been issued for public comment, the public comment period shall not be repeated and the proposal shall proceed through the applicable agency appeal process.

(b) SALES AWARDED TO PURCHASERS.—

(1) IN GENERAL.—A timber sale contract that has been awarded to a purchaser under subsection (b) or (d) of section 2001 of Public Law 104-19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) shall, notwithstanding the commencement of contract performance, be subject to—

(A) in the case of Forest Service sales, administrative appeal in accordance with section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (106 Stat. 1419; 16 U.S.C. 1612 note);

(B) in the case of Bureau of Land Management sales, protests filed in accordance with section 5003.3 of title 43, Code of Federal Regulations (or any successor regulation); and

(C) judicial review.

(3) REQUIREMENTS.—Section 2001 of Public Law 104-19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) shall apply to any claim under paragraph (1) related to compliance with any expeditious procedural requirement. Any other claim shall be subject to applicable law.

(4) TERMINATION OR MODIFICATION.—If the result of the protest or judicial review indicates a need to terminate or modify the awarded contract, the Secretary concerned may—

(A) exercise any provision of the original contract that authorizes termination and payment of specified damages, where applicable; or

(B) if the Secretary concerned determines that termination or modification of the contract is necessary to avoid adverse effects on the environment or natural resources, terminate or modify the contract.

#### Subtitle B—Northwest Forest Plan

##### SEC. 21. NORTHWEST FOREST PLAN.

(a) DIRECTION TO COMPLETE TIMBER SALES.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall expeditiously prepare, offer, and award timber sale contracts consistent with the Northwest Forest Plan.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of the Interior shall, to the maximum extent practicable, make funds available for qualified personnel, such as biologists, hydrologists, and geologists, to complete any watershed assessment or other analyses required for the preparation, advertisement, and award of timber sale contracts in order to meet the probable

sale quantities and other goals of the Northwest Forest Plan.

(2) **SOURCE.**—If there are no other unobligated funds appropriated to the Secretary of Agriculture or the Secretary of the Interior that may be made available as required by paragraph (1), the Secretary concerned shall make funds available from amounts that are available for the purpose of constructing forest roads in the regions to which the Northwest Forest Plan applies.

(c) **SAVINGS PROVISION.**—Nothing in this subtitle affects the legal duties of Federal agencies with respect to the planning and offering of timber sales, including salvage timber sales under this title.

#### **Subtitle C—Lawful Expediting of Salvage Timber Sales**

#### **SEC. 31. DEFINITIONS.**

In this subtitle:

(1) **DISLOCATED RESOURCE WORKER.**—The term “dislocated resource worker” means a resource worker who—

(A) has been terminated or received notice of termination from employment and is unlikely to return to employment in the forest products industry, including employment in the harvest or management of logs, transportation of logs or wood products, processing of wood products (including pulp), or the manufacturing and distribution of wood processing or logging equipment because of diminishing demand for the worker's skills;

(B) has been terminated or received notice of termination from employment as a result of salmon harvest reductions, including a worker employed in the commercial or recreational harvesting of salmon or the commercial buying and processing of salmon; or

(C) is self-employed and has been displaced from the worker's business in the forest products or fishing industry because of diminishing demand for the business's services or goods.

(2) **SALVAGE TIMBER SALE.**—The term “salvage timber sale” means a timber sale—

(A) in which each unit is designed to remove trees that are dead from any cause (except arson found to have been committed to produce timber sales), or that have been determined by reliable scientific methods to have a high probability of dying within 1 year as a result of disease, blowdown, fire, or insect damage; and

(B) that includes a small percentage of other trees to the extent necessary to secure human safety or provide for reasonable and environmentally sound access to and removal of dead or dying trees described in subparagraph (A).

(3) **STREAMLINED CONSULTATION.**—The term “streamlined consultation” means the expedited procedures for conducting interagency coordination and consultation under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as set forth in items 4, 5, and 6 of enclosure 4 of the August 18, 1995, interagency letter on implementing the salvage sale provisions of Public Law 104-19.

#### **SEC. 32. SALVAGE TIMBER SALES SCOPE AND FACILITATION.**

The Secretary of Agriculture, acting under this subtitle and through the Chief of the Forest Service, and the Secretary of the Interior, acting under this subtitle and through the Director of the Bureau of Land Management, shall—

(1) offer salvage timber sales under this Act only on Forest Service and Bureau of Land Management land utilizing existing and generally operable roads (except that spur roads of less than .25 mile may be constructed or reconstructed to permit access to individual timber sale units and existing and generally operable roads may be reconstructed) located outside—

(A) any unit of the National Wilderness Preservation System or any area rec-

ommended in a record of decision for a land management plan for wilderness designation;

(B) any roadless area in which forest and land management resource plans limit timber sales or roads;

(C) any area administratively identified as late successional or riparian or withdrawn from timber harvest for other conservation purposes, in which a salvage timber sale would be inconsistent with agency standards and guidelines for the area; and

(D) any area withdrawn by Federal law for any conservation purpose;

(2) expeditiously prepare, offer, and award timber salvage sales described in paragraph (1);

(3) enter basic forest inventory, including data on vegetation, soils, riparian systems, fisheries, wildlife habitat, and other relevant information into the Geographical Information System or other existing resource maps and make the inventory data easily available to incorporate into individual projects;

(4) notwithstanding the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) or other applicable law, permit forest and district offices to procure computer software using available funds to facilitate resource inventory;

(5) if helpful in expediting salvage sales, alter the agency tree marking and designating requirements by writing into timber sale contracts—

(A) readily determinable characteristics to guide the contractor in selecting trees to harvest; and

(B) fines and penalties, including debarment, to enforce subparagraph (A),

except that this paragraph shall not alter agency marking or designating requirements for trees to remain uncut for wildlife, riparian, or other conservation measures;

(6) perform timely revegetation and slash removal operations consistent with applicable laws (including regulations) and silvicultural practice; and

(7) undertake watershed and other restoration activities including road decommissioning in or near the salvage timber sale by first offering the work to dislocated resource workers or individuals certified by an appropriate resource management apprenticeship program and ensure work is performed according to requirements of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.).

#### **SEC. 33. SALVAGE TIMBER SALE DOCUMENTATION AND APPEAL PROCEDURES.**

(a) **PREPARATION OF DOCUMENTS.**—In conducting a salvage timber sale under this subtitle—

(1) to speed compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), agencies shall, to the maximum extent practicable—

(A) complete informal consultation within 30 days and formal consultation within 60 days after submission of a biological assessment using the streamlined consultation process;

(B) establish a key contact person in each regional office of the Forest Service, the Bureau of Land Management, the Fish and Wildlife Service, and the National Marine Fisheries Service to facilitate issue resolution; and

(C) establish regional and national interagency dispute resolution teams; and

(2) in the case of the Forest Service, prior to publishing a notice of a proposed action under section 215.5 of title 36, Code of Federal Regulations (or any successor regulation), and in the case of the Bureau of Land Management, prior to publishing a notice of decision under section 5003.2 of title 43, Code of Federal Regulations (or any successor regulation), on a proposed timber salvage sale, facilitate public participation in the sale

planning and preparation by providing appropriate notice in accordance with section 1506.6(b)(3) of title 40, Code of Federal Regulations (or any successor regulation), and allowing any member of the public to attend not less than 1 interdisciplinary team meeting, not less than 1 of which will be held during evening hours.

(b) **ADVISORY COMMITTEES.**—

(1) **IN GENERAL.**—The Forest Service and Bureau of Land Management may form 1 or more committees to advise agencies on proposed salvage timber sales if each committee will facilitate public involvement in decisionmaking.

(2) **FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a committee formed under paragraph (1).

(3) **NOTICE.**—The Secretary concerned shall provide appropriate notification to the public of any meeting of a committee formed under paragraph (1) at least 10 days prior to the meeting and the meeting shall be open to the public, unless the Secretary concerned determines that all or a portion of the meeting will be closed in accordance with section 552b(c) of title 5, United States Code.

(c) **EXPEDITING ADMINISTRATIVE APPEALS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), administrative review of a decision of the Forest Service or the Bureau of Land Management under this subtitle shall be conducted—

(A) in the case of the Forest Service, in accordance with section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (106 Stat. 1419; 16 U.S.C. 1612 note); and

(B) in the case of the Bureau of Land Management, after the area manager makes a decision, as described in section 5003.3 of title 43, Code of Federal Regulations (or any successor regulation), and in accordance with applicable protest and appeal procedures.

(2) **EXCEPTIONS.**—

(A) **FOREST SERVICE APPEAL.**—An appeal of a decision must be filed not later than the later of—

(i) 30 days after the publication of a decision document for a salvage timber sale; or

(ii) mailing of notice to interested parties, in keeping with relevant agency regulations.

(B) **FINAL DECISION.**—The agency concerned shall issue a final decision not later than 30 days after the deadline for an administrative appeal has passed and may not extend the closing date for a final decision.

(d) **EXPEDITING JUDICIAL REVIEW.**—

(1) **IN GENERAL.**—Any person may challenge a salvage timber sale under this subtitle by bringing a civil action in a United States district court.

(2) **TIME FOR CHALLENGE.**—An action under paragraph (1) shall be brought on or before the date that is 30 days after the date on which an agency provides notice of a final decision regarding a salvage timber sale, unless the plaintiff shows good cause why the action should be permitted to be brought after that date.

(3) **TIME FOR APPEAL.**—Any appeal of a district court decision on a salvage timber sale under this Act shall be brought not later than 30 days after the first date on which the appeal may first be filed.

(4) **EXPEDITIOUS CONSIDERATION.**—

(A) **IN GENERAL.**—The district and appellate courts shall, to the extent practicable, expedite proceedings in a civil action under this subsection.

(B) **PROCEDURES.**—To expedite proceedings under this subsection, a court may shorten the time allowed for the filing of papers or for other procedures that would otherwise apply.

**SEC. 34. FUNDING TO IMPLEMENT THIS SUBTITLE.**

To facilitate implementation of section 32 (including expediting salvage timber sales, entering basic forest inventory, procuring computer software, and undertaking watershed and other restoration activities), a Forest Service regional office or a Bureau of Land Management district may use the permanent timber salvage fund.

**SEC. 35. EXPEDITED PROCEDURAL REGULATIONS.**

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary concerned, in consultation with the Council on Environmental Quality, shall develop regulations to expedite full compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other appropriate environmental laws for a decision regarding a proposed salvage timber sale authorized under this title.

(b) **TIME LIMIT.**—The Secretary and the Council on Environmental Quality shall, to the extent practicable—

(1) limit the time necessary for public participation and agency analysis for a proposed action regarding a salvage timber sale authorized under this title to 120 days after notice of proposed action; and

(2) establish safeguards to provide flexibility on the limitation referred to in paragraph (1) to provide for full compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other appropriate environmental law.

**SEC. 36. OTHER SALVAGE TIMBER SALES.**

Nothing in this subtitle shall be construed to affect the authority of the Secretary of Agriculture, acting through the Chief of the Forest Service, or the Secretary of the Interior, acting through the Director of the Bureau of Land Management, to conduct salvage timber sales under other applicable laws.

**SEC. 37. PILOT PROGRAM TO SELL STEWARDSHIP CONTRACTS FOR FOREST SERVICES.**

(a) **IN GENERAL.**—The Secretary of the Interior, acting through the Bureau of Land Management, and the Secretary of Agriculture, acting through the Forest Service, shall implement a program to demonstrate the feasibility of harvest contracts for salvage timber sales and associated forest activities.

(b) **USE AUTHORIZED.**—The forest resource managers and district resource managers shall use stewardship contracts to carry out resource activities in a comprehensive manner to restore and preserve the ecological integrity and productivity of forest ecosystems and to encourage or enhance the economic sustainability and viability of nearby rural communities. The resource activities should be consistent with the land management plan for achieving the desired future conditions of the area being treated.

(c) **AREAS.**—

(1) **INTERIOR.**—The Secretary of the Interior shall establish up to 5 pilot projects per Bureau of Land Management district to carry out this section.

(2) **AGRICULTURE.**—The Secretary of Agriculture shall establish up to 5 pilot projects per Forest Service region to carry out this section.

(d) **DEVELOPMENT AND USE OF CONTRACTS.**—Each resource manager of a unit in which a pilot program is initiated may enter into stewardship contracts with qualified non-Federal entities (as established in Federal Government procurement regulations or as determined by the Secretary). The resource manager shall select the type of stewardship contract most suitable to local conditions. Contracts should clearly describe the desired

future condition for each resource managed under the contract and the evaluation criteria to be used to determine acceptable performance. The length of a stewardship contract shall be consistent with section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(e) **PROCESS.**—To carry out this section, the Secretary concerned shall establish a process to—

(1) offer 1 or more contracts to a qualified non-Federal entity to carry out forest rehabilitation and stewardship activities, including salvage timber sales and to collect and sort any wood harvested; and

(2) have the agency concerned sell, or contract with a qualified non-Federal entity different than the entity in paragraph (1) to sell, the harvested wood.

(f) **FOREST SERVICE STUDY.**—

(1) **IN GENERAL.**—The Chief of the Forest Service shall conduct a study of alternative systems for administering forest ecosystem health-related activities, including modification of special account and trust fund management and reporting, stewardship contracting, and government logging.

(2) **SIMILARITIES AND DIFFERENCES.**—The study shall compare and contrast the various alternatives with systems in existence on the date of the study, including—

(A) ecological effects;

(B) monitoring and research needs;

(C) Federal, State, and local fiscal and other economic consequences; and

(D) opportunities for the public to be involved in decisionmaking before activities are undertaken.

(3) **REQUIREMENTS OF STUDY.**—To ensure the validity of the study, in measuring the effect of the use of contracting, the study shall specify the costs that contractors would bear for health care, retirement, and other benefits afforded public employees performing the same tasks.

(4) **TRANSMITTAL.**—The report shall be transmitted to Congress prior to January 1, 1998.

**SEC. 38. HEADING.**

This subtitle shall remain effective until September 30, 1999.

**Subtitle D—Timber Stand Health Prioritization****SEC. 41. REVIEW OF TIMBER STAND HEALTH.**

The Secretary of the Interior and the Secretary of Agriculture, respectively, shall review the health of timber stands on Bureau of Land Management and Forest Service lands and shall each—

(1) identify, not later than March 1 of each year, the timber stands on Bureau of Land Management or Forest Service lands, as applicable, that are not in a healthy condition; and

(2) prepare a document to prioritize areas that would benefit from rehabilitation activities to restore timber stands to a healthy condition.

**SEC. 42. REHABILITATION PRIORITIZATION.**

To determine which areas of land should receive the first attention, each resource area or ranger district shall consider where intervention or treatment—

(1) has the best opportunity to restore health to affected timber stands;

(2) has the greatest potential to reduce the risk of wildfires, especially where human safety and private property are threatened; and

(3) is the least controversial, such as on lands located outside of wilderness, unroaded areas, riparian areas, late successional reserves, or other sensitive areas.

**SEC. 43. FOREST TIMBER STAND HEALTH REPORT.**

(a) **IN GENERAL.**—The Secretary of the Interior and the Secretary of Agriculture shall

prepare an annual report (which shall be known as the Forest Timber Stand Health Report) to evaluate the overall health of the forest timber stands on Bureau of Land Management and Forest Service lands, respectively.

(b) **REQUIRED INFORMATION.**—The Forest Timber Stand Health Report shall contain—

(1) quantitative and qualitative data on the health of timber stands concerned; and

(2) a review of the actions taken to attempt to improve the health of the timber stands.

**SEC. 44. ECOLOGICAL EFFICACY OF ACTIVITIES.**

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall enter into a contract with the National Academy of Sciences for the purpose of conducting a study of the ecological consequences of various activities intended, at least in part, to improve forest ecosystem health.

(b) **ACTIVITIES EXAMINED.**—The activities examined under subsection (a) shall include—

(1) prescribed fire, site preparation for reforestation, artificial reforestation, natural regeneration, stand release, precommercial thinning, fertilization, other stand improvement activities, salvage logging, and brush disposal;

(2) historical as well as recent examples and a variety of conditions in ecological regions; and

(3) a comparison of various activities within a watershed, including activities conducted by other Federal land management agencies.

(c) **TRANSMITTAL.**—The report shall be transmitted to the Chief of the Forest Service and to Congress not later than 2 years after the date of enactment of this Act.

**SEC. 45. AUTHORIZATION FOR FUNDING.**

There are authorized to be appropriated such funds as are necessary to carry out this subtitle.

**SEC. 46. EMERGENCY DESIGNATION.**—Congress hereby designates all amounts in this entire subtitle as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided, That these amounts shall only be available to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted by the President to the Congress.

**SEC. 12. (e) Funds for Buyouts and Other Expenditures Under this Subsection.**—The Secretary concerned shall pay purchasers for volumes returned to the government and any additional costs to implement this section from any funds available to the Secretary.

**SEC. 13. LOST RECEIPTS.**—Of the funds made available for the Department of Agriculture Forest Service under the heading "National Forest System" for General Administration in fiscal year 1996 and any unobligated balances from funds appropriated in prior years under such heading, \$80,000,000 are rescinded; of the funds made available for the Department of Agriculture Forest Service under the heading "Forest Research" in fiscal year 1996 and any unobligated balances from funds appropriated in prior years under such heading, \$30,000,000 are rescinded.

**CRAIG AMENDMENT NO. 3494**

Mr. CRAIG proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

In the matter under the heading "PAYMENT TO THE LEGAL SERVICES CORPORATION" under

the heading "LEGAL SERVICES CORPORATION" in title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, strike "\$291,000,000" and all that follows through "\$1,500,000" and insert the following: "\$290,750,000 is for basic field programs and required independent audits carried out in accordance with section 509; \$250,000 is for a payment to an opposing party for attorney's fees and expenses relating to civil actions named In the Matter of Baby Boy Doe, and Doe v. Roe and Indian tribe, with docket numbers 19512 and 21723 (Idaho February 23, 1996); \$1,500,000".

**HATCH (AND OTHERS)  
AMENDMENT NO. 3495**

Mr. HATCH (for himself, Mr. GRASSLEY, and Mr. SHELBY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

On page 755 between lines 20 and 21 insert the following:

**TREASURY, POSTAL SERVICE AND  
GENERAL GOVERNMENT  
EXECUTIVE OFFICE OF THE PRESIDENT  
AND FUNDS APPROPRIATED TO THE  
PRESIDENT**

**OFFICE OF NATIONAL DRUG CONTROL  
POLICY**

**SALARIES AND EXPENSES**

**(INCLUDING TRANSFER OF FUNDS)**

For an additional amount for "Salaries and Expenses," \$3,900,000.

**THE WHITE HOUSE OFFICE**

**SALARIES AND EXPENSES**

**(RESCISSION)**

Of the funds made available under this heading in Public Law 104-52, \$650,000 are rescinded.

**OFFICE OF POLICY DEVELOPMENT**

**SALARIES AND EXPENSES**

**(RESCISSION)**

Of the funds made available under this heading in Public Law 104-52, \$650,000 are rescinded.

**OFFICE OF MANAGEMENT AND BUDGET**

**SALARIES AND EXPENSES**

**(RESCISSION)**

Of the funds made available under this heading in Public Law 104-52, \$500,000 are rescinded.

**INDEPENDENT AGENCIES**

**GENERAL SERVICES ADMINISTRATION**

**FEDERAL BUILDINGS FUND**

**LIMITATIONS ON AVAILABILITY OF REVENUE**

**(RESCISSION)**

Of the funds made available for installment acquisition payments under this heading in Public Law 104-52, \$1,900,000 are rescinded: *Provided*, That the aggregate amount made available to the Fund shall be \$5,064,249,000.

**UNITED STATES TAX COURT**

**SALARIES AND EXPENSES**

**(RESCISSION)**

Of the funds made available under this heading in Public Law 104-52, \$200,000 are rescinded.

**CHAPTER 12**

On page 755, line 22 redesignate the section number, and

On page 756, line 8 redesignate the section number.

Page 29, line 18, insert the following:

"*Provided further*, That no less than \$20,000,000 shall be for the District of Colum-

bia Metropolitan Police Department to be used at the discretion of the Police Chief for law enforcement purposes, conditioned upon appropriate consultation with the chairman and ranking members of the House and Senate Committees on the Judiciary and Appropriations."

**GORTON (AND MURRAY)  
AMENDMENT NO. 3496**

Mr. GORTON (for himself and Mrs. MURRAY) proposed an amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

At the appropriate place in the bill, insert the following:

**SECTION 1. DESIGNATION.**

The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known and designated as the "Jonathan M. Wainwright Memorial VA Medical Center."

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in section 1 shall be deemed to be a reference to the "Jonathan M. Wainwright Memorial VA Medical Center."

**BINGAMAN AMENDMENT NO. 3497**

Mr. HATFIELD (for Mr. BINGAMAN) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

At the appropriate place, insert the following:

**COMPETITIVENESS POLICY COUNCIL**

**SALARIES AND EXPENSES**

For necessary expenses of the Competitiveness Policy Council, \$100,000.

**HARKIN AMENDMENT NO. 3498**

Mr. HARKIN proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

At the end of the amendment, add the following new title:

**TITLE V—HEALTH CARE FRAUD AND  
ABUSE PREVENTION**

**SEC. 500. SHORT TITLE.**

This chapter may be cited as the "Health Care Fraud, Waste, and Abuse Reduction Act of 1996".

**Subtitle A—Fraud and Abuse Control  
Program**

**CHAPTER 1—FRAUD AND ABUSE  
CONTROL PROGRAM**

**SEC. 501. FRAUD AND ABUSE CONTROL PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B of such Act the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than July 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

“(1) a policy of health insurance;  
“(2) a contract of a service benefit organization; and

“(3) a membership agreement with a health maintenance organization or other prepaid health plan.”.

(b) **ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.**—Section 1817 of the Social Security Act (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

“(k) **HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.**—

“(1) **ESTABLISHMENT.**—There is hereby established in the Trust Fund an expenditure account to be known as the ‘Health Care Fraud and Abuse Control Account’ (in this subsection referred to as the ‘Account’).

“(2) **APPROPRIATED AMOUNTS TO TRUST FUND.**—

“(A) **IN GENERAL.**—There are hereby appropriated to the Trust Fund—

“(i) such gifts and bequests as may be made as provided in subparagraph (B);

“(ii) such amounts as may be deposited in the Trust Fund as provided in section 542(c) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, and title XI; and

“(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

“(B) **AUTHORIZATION TO ACCEPT GIFTS.**—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

“(C) **TRANSFER OF AMOUNTS.**—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

“(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

“(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

“(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

“(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

“(3) **APPROPRIATED AMOUNTS TO ACCOUNT.**—

“(A) **IN GENERAL.**—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

“(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

“(I) for fiscal year 1996, \$110,000,000,

“(II) for fiscal year 1997, \$140,000,000,

“(III) for fiscal year 1998, \$160,000,000,

“(IV) for fiscal year 1999, \$185,000,000,

“(V) for fiscal year 2000, \$215,000,000,

“(VI) for fiscal year 2001, \$240,000,000, and

“(VII) for fiscal year 2002, \$270,000,000; and

“(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

“(I) for fiscal year 1996, \$200,000,000, and

“(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

“(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

“(B) **USE OF FUNDS.**—The purposes described in this subparagraph are as follows:

“(i) **GENERAL USE.**—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

“(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

“(II) investigations;

“(III) financial and performance audits of health care programs and operations;

“(IV) inspections and other evaluations; and

“(V) provider and consumer education regarding compliance with the provisions of title XI.

“(ii) **USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.**—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

“(4) **ANNUAL REPORT.**—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.”.

#### **SEC. 502. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.**

(a) **CRIMES.**—

(1) **SOCIAL SECURITY ACT.**—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by striking “MEDICARE OR STATE HEALTH CARE PROGRAMS” and inserting “FEDERAL HEALTH CARE PROGRAMS”.

(B) In subsection (a)(1), by striking “a program under title XVIII or a State health care program (as defined in section 1128(h))” and inserting “a Federal health care program”.

(C) In subsection (a)(5), by striking “a program under title XVIII or a State health care program” and inserting “a Federal health care program”.

(D) In the second sentence of subsection (a)—

(i) by striking “a State plan approved under title XIX” and inserting “a Federal health care program”; and

(ii) by striking “the State may at its option (notwithstanding any other provision of that title or of such plan)” and inserting “the administrator of such program may at its option (notwithstanding any other provision of such program)”.

(E) In subsection (b)—

(i) by striking “and willfully” each place it appears;

(ii) by striking “\$25,000” each place it appears and inserting “\$50,000”; and

(iii) by striking “title XVIII or a State health care program” each place it appears and inserting “Federal health care program”;

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking “kind—” and inserting “kind with intent to be influenced—”;

(v) in paragraph (1)(A), by striking “in return for referring” and inserting “to refer”;

(vi) in paragraph (1)(B), by striking “in return for purchasing, leasing, ordering, or arranging for or recommending” and inserting “to purchase, lease, order, or arrange for or recommend”;

(vii) in paragraph (2) in the matter preceding subparagraph (A), by striking “to induce such person” and inserting “with intent to influence such person”;

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: “A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.”;

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking “Paragraphs (1) and (2)” and inserting “Paragraphs (1), (2), and (3)”;

(xi) by inserting after paragraph (2) the following new paragraph:

“(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than \$25,000 and not more than \$50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

“(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

“(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

“(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.”.

(F) In subsection (c), by inserting “(as defined in section 1128(h))” after “a State health care program”.

(G) By adding at the end the following new subsections:

“(f) For purposes of this section, the term ‘Federal health care program’ means—

“(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

“(2) any State health care program, as defined in section 1128(h).

“(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

“(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

“(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

“(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.”.

(2) **IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.**—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

“(h) The Secretary may—

“(1) in consultation with State and local health care officials, identify opportunities

for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect upon enactment of this Act.

## **CHAPTER 2—ENHANCING CONSUMER AND PROVIDER ROLES IN COMBATING HEALTH CARE FRAUD, WASTE, AND ABUSE**

### **SEC. 511. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.**

(a) **ESTABLISHMENT OF PROGRAM.**—Not later than July 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) **DISSEMINATION OF INFORMATION.**—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

### **SEC. 512. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.**

(a) **CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.**—Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include—

"(A) a statement that, because billing errors do occur and because medicare fraud, waste, and abuse is a significant problem, beneficiaries should carefully check any statement of benefits received for accuracy and report any questionable charges;

"(B) a clear and understandable summary of—

"(i) how payments for items and services are determined under this title; and

"(ii) the beneficiary's right to request a itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b)."

(b) **REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.**—

(1) **IN GENERAL.**—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a), as

amended by section 531, is amended by adding at the end the following new subsection:

"(n) **WRITTEN REQUEST FOR ITEMIZED BILL.**—

"(1) **IN GENERAL.**—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) **30-DAY PERIOD TO RECEIVE BILL.**—

"(A) **IN GENERAL.**—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) **PENALTY.**—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than \$100 for each such failure.

"(3) **REVIEW OF ITEMIZED BILL.**—

"(A) **IN GENERAL.**—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) **SPECIFIC ALLEGATIONS.**—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed; or

"(ii) any other billing irregularity (including duplicate billing).

"(4) **FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.**—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) **RECOVERY OF AMOUNTS.**—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4)."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to medical or other items or services provided on or after July 1, 1996.

### **SEC. 513. BENEFICIARY INCENTIVE PROGRAMS.**

(a) **PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.**—

(1) **ESTABLISHMENT OF PROGRAM.**—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) **PAYMENT OF PORTION OF AMOUNTS COLLECTED.**—If an individual reports informa-

tion to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least \$100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) **PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.**—

(1) **ESTABLISHMENT OF PROGRAM.**—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) **PAYMENT OF PORTION OF PROGRAM SAVINGS.**—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

### **SEC. 514. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.**

(a) **SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.**—

(1) **IN GENERAL.**—

(A) **SOLICITATION OF PROPOSALS FOR SAFE HARBORS.**—Not later than July 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) **PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.**—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) **REPORT.**—The Inspector General of the Department of Health and Human Services (in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) **CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.**—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f))).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions or—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) **INTERPRETIVE RULINGS.**—

(1) **IN GENERAL.**—

(A) **REQUEST FOR INTERPRETIVE RULING.**—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a-7a and 1320a-7b) (in this section referred to as an "interpretive ruling").

(B) **ISSUANCE AND EFFECT OF INTERPRETIVE RULING.**—

(1) **IN GENERAL.**—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) **REASONS FOR DENIAL.**—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) **CRITERIA FOR INTERPRETIVE RULINGS.**—

(A) **IN GENERAL.**—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United

States Code) not authorized under this subsection.

(B) **NO RULINGS ON FACTUAL ISSUES.**—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) **SPECIAL FRAUD ALERTS.**—

(1) **IN GENERAL.**—

(A) **REQUEST FOR SPECIAL FRAUD ALERTS.**—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) (in this subsection referred to as a "special fraud alert").

(B) **ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.**—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) **CRITERIA FOR SPECIAL FRAUD ALERTS.**—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

#### **SEC. 515. CORPORATE WHISTLEBLOWER PROGRAM.**

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B of such Act the following new section:

##### **"CORPORATE WHISTLEBLOWER PROGRAM**

**"SEC. 1128C (a) ESTABLISHMENT OF PROGRAM.**—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

**"(b) LIMITATION.**—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

**"(1)** the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

**"(2)** any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure."

#### **SEC. 516. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.**

(a) **GENERAL PURPOSE.**—Not later than July 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) **REPORTING OF INFORMATION.**—

(1) **IN GENERAL.**—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) **INFORMATION TO BE REPORTED.**—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) **CONFIDENTIALITY.**—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) **TIMING AND FORM OF REPORTING.**—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) **TO WHOM REPORTED.**—The information required to be reported under this subsection shall be reported to the Secretary.

(c) **DISCLOSURE AND CORRECTION OF INFORMATION.**—

(1) **DISCLOSURE.**—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) **CORRECTIONS.**—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) **ACCESS TO REPORTED INFORMATION.**—

(1) **AVAILABILITY.**—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) **FEES FOR DISCLOSURE.**—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) **PROTECTION FROM LIABILITY FOR REPORTING.**—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term “final adverse action” includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms “licensed health care practitioner”, “licensed practitioner”, and “practitioner” mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term “health care provider” means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term “supplier” means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i-3(a) and (b), and 1395x).

(5) The term “Government agency” shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term “health plan” means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act (42 U.S.C. 1396r-2(d)) is amended by inserting “and section 516 of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996” after “section 422 of the Health Care Quality Improvement Act of 1986”.

#### SEC. 517. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: “Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board.”; and

(2) by amending subsection (b)(4) to read as follows:

“(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.”

### CHAPTER 3—SANCTIONS FOR COMMITTING FRAUD OR ABUSE

#### SEC. 521. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

“(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.”

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) is amended to read as follows:

“(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, under Federal or State law—

“(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

“(i) in connection with the delivery of a health care item or service, or

“(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

“(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary re-

sponsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.”

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

“(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.”

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of the Social Security Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking “CONVICTION” and inserting “MISDEMEANOR CONVICTION”; and

(B) by striking “criminal offense” and inserting “criminal offense consisting of a misdemeanor”.

#### SEC. 522. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

“(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

“(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

“(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.”

#### SEC. 523. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

“(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

“(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

“(B) that has been excluded from participation under a program under title XVIII or under a State health care program.”

**SEC. 524. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.**

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended by striking “may prescribe” and inserting “may prescribe, except that such period may not be less than 1 year”.

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c-5(b)(2)) is amended by striking “shall remain” and inserting “shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain”.

(b) REPEAL OF “UNWILLING OR UNABLE” CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking “and determines” and all that follows through “such obligations,”; and

(2) by striking the third sentence.

**SEC. 525. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.**

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 of the Social Security Act (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

“(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.”.

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended by adding at the end the following sentence: “An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.”.

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) of the Social Security Act (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: “An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code.”.

**SEC. 526. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.**

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking “the Secretary may terminate” and all that follows and inserting “in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

“(A) has failed substantially to carry out the contract;

“(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

“(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).”.

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

“(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

“(i) Civil money penalties of not more than \$25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization’s contract.

“(ii) Civil money penalties of not more than \$10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

“(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.”.

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of the Social Security Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

“(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

“(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary’s determination under paragraph (1) and the organization fails to develop or implement such a plan;

“(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization’s attention;

“(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

“(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.”.

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of the Social Security Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking “an agreement” and inserting “a written agreement”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after July 1, 1996.

**SEC. 527. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.**

(a) IN GENERAL.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to \$10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

**(c) DEFINITIONS.—**

(1) HEALTH CARE FRAUD.—For purposes of this section, the term “health care fraud” means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term “original source” means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

**SEC. 528. EFFECTIVE DATE.**

The amendments made by this chapter shall take effect July 1, 1996.

**CHAPTER 4—CIVIL MONETARY PENALTIES**

**SEC. 531. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.**

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking “programs under title XVIII” and inserting “Federal health care programs (as defined in section 1128B(b)(f))”.

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

“(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud, Waste, and Abuse Reduction Act of 1996 (as estimated by the Secretary) shall be deposited into the general fund of the Treasury.”.

(3) In subsection (i)—

(A) in paragraph (2), by striking “title V, XVIII, XIX, or XX of this Act” and inserting “a Federal health care program (as defined in section 1128B(f))”;

(B) in paragraph (4), by striking “a health insurance or medical services program under title XVIII or XIX of this Act” and inserting “a Federal health care program (as so defined)”; and

(C) in paragraph (5), by striking “title V, XVIII, XIX, or XX” and inserting “a Federal health care program (as so defined)”.

(4) By adding at the end the following new subsection:

“(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the

Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

“(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

“(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

“(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

“(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.”

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking “or” at the end of paragraph (1)(D);

(2) by striking “, or” at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting “; or”; and

(4) by inserting after paragraph (3) the following new paragraph:

“(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;”

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking “or” at the end of subparagraph (C);

(2) by striking “; or” at the end of subparagraph (D) and inserting “, or”; and

(3) by adding at the end the following new subparagraph:

“(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);”

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting “, directed, or prescribed” after “furnished”.

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a)

of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking “\$2,000” and inserting “\$10,000”;

(2) by inserting “; in cases under paragraph (4), \$10,000 for each day the prohibited relationship occurs” after “false or misleading information was given”; and

(3) by striking “twice the amount” and inserting “3 times the amount”.

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking “claimed,” and inserting “claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided;”; and

(2) in subparagraph (C), by striking “or” at the end;

(3) in subparagraph (D), by striking “; or” and inserting “, or”; and

(4) by inserting after subparagraph (D) the following new subparagraph:

“(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or”

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(b)) is amended by adding the following new paragraph:

“(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than \$10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).”

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c-5(b)(3)) is amended by striking “the actual or estimated cost” and inserting “up to \$10,000 for each instance”.

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking “or” at the end of paragraph (1)(D);

(B) by striking “, or” at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting “; or”; and

(D) by inserting after paragraph (3) the following new paragraph:

“(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in

whole or in part, under title XVIII, or a State health care program;”

(2) REMUNERATION DEFINED.—Section 1128A(i) of the Social Security Act (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

“(6) The term ‘remuneration’ includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term ‘remuneration’ does not include—

“(A) the waiver of coinsurance and deductible amounts by a person, if—

“(i) the waiver is not offered as part of any advertisement or solicitation;

“(ii) the person does not routinely waive coinsurance or deductible amounts; and

“(iii) the person—

“(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

“(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

“(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

“(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996; or

“(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.”

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect July 1, 1996.

## CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

### SEC. 541. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

#### “§ 1347. Health care fraud

“(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

“(b) For purposes of this section, the term ‘health plan’ has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1347. Health care fraud.”

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 561(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

**SEC. 542. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.**

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

“(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

“(B) For purposes of this paragraph, the term ‘Federal health care offense’ means a violation of, or a criminal conspiracy to violate—

“(i) section 1347 of this title;

“(ii) section 1128B of the Social Security Act; and

“(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.”

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting “or (a)(6)” after “(a)(1)”.

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 561(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term “payment of the costs of asset forfeiture” means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeiture, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

**SEC. 543. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.**

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by inserting “or” at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

“(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);”

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting “or a Federal health care offense (as defined in section 982(a)(6)(B))” after “title”.

**SEC. 544. GRAND JURY DISCLOSURE.**

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

“(1) received in the course of duty as an attorney for the Government; or

“(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.”

**SEC. 545. FALSE STATEMENTS.**

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 1035. False statements relating to health care matters**

“(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) For purposes of this section, the term ‘health plan’ has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“1035. False statements relating to health care matters.”

**SEC. 546. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.**

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses**

“(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection,

or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term ‘Federal health care offense’ has the same meaning given such term in section 982(a)(6)(B) of this title.

“(c) CRIMINAL INVESTIGATOR.—As used in this section the term ‘criminal investigator’ means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.”

**SEC. 547. THEFT OR EMBEZZLEMENT.**

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 669. Theft or embezzlement in connection with health care**

“(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

“(b) HEALTH PLAN.—As used in this section the term ‘health plan’ has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

“669. Theft or embezzlement in connection with health care.”

**SEC. 548. LAUNDERING OF MONETARY INSTRUMENTS.**

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

“(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.”

**SEC. 549. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.**

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

**“§ 3486. Authorized investigative demand procedures**

“(a) AUTHORIZATION.—

“(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid

witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

“(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

“(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

“(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

“(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

“(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

“(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

“(e) USE IN ACTION AGAINST INDIVIDUALS.—

“(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

“(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

“(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

“(f) HEALTH PLAN.—As used in this section the term ‘health plan’ has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

“3486. Authorized investigative demand procedures.”

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting “or a Department of Justice subpoena (issued under section 3486),” after “subpoena”.

#### CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

##### SEC. 551. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Section 1903(q)(3) of the Social Security Act (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting “(A)” after “in connection with”; and

(2) by striking “title.” and inserting “title; and (B) in cases where the entity’s function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).”

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Section 1903(q)(4) of the Social Security Act (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

“(4)(A) The entity has—

“(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

“(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

“(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

“(B) For purposes of this paragraph, the term ‘board and care facility’ means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

“(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

“(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.”

#### CHAPTER 7—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

##### SEC. 561. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs

under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

##### SEC. 562. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

##### SEC. 563. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual’s suitability for receiving such a code.

##### SEC. 564. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 562 and 563 are satisfied.

##### SEC. 565. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

“(g) A home health agency shall submit claims for payment of home health services

under this title only on the basis of the geographic location at which the service is furnished, as determined by the secretary.”.

(b) **WAGE ADJUSTMENT.**—Section 1861(v)(1)(L)(iii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking “agency is located” and inserting “service is furnished”.

**SEC. 566. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS.**

(a) **APPLICATION OF STANDARDS FOR OTHER PROVIDERS OF PHYSICAL THERAPY SERVICES TO SERVICES FURNISHED BY PHYSICIANS.**—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking “or” at the end of paragraph 14;

(2) by striking the period at the end of paragraph (15) and inserting “; or”; and

(2) by adding at the end the following new paragraph:

“(16) in the case of physicians’ services under 1848(j)(3) consisting of outpatient physical therapy services or outpatient occupational therapy services, which are furnished by a physician who does not meet the requirements applicable under section 1861(p) to a clinic or rehabilitation agency furnishing such services.”.

(b) **CONFORMING AMENDMENT.**—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(subject to section 1862(a)(16))” after “(2)(D)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after July 1, 1996.

**SEC. 567. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.**

(a) **IN GENERAL.**—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(b)), as amended by section 531(g), is amended by adding at the end the following new paragraph:

“(4)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

“(i) \$5,000, or

“(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

“(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

**SEC. 568. ITEMIZATION OF SURGICAL DRESSING BILLS SUBMITTED BY HOME HEALTH AGENCIES.**

Section 1834(i)(2) (42 U.S.C. 1395m(i)(2)) is amended to read as follows:

“(2) **EXCEPTION.**—Paragraph (1) shall not apply to surgical dressings that are furnished as an incident to a physician’s professional service.”.

**Subtitle B—Additional Provisions to Combat Waste, Fraud, and Abuse**

**CHAPTER 1—WASTE AND ABUSE REDUCTION**

**SEC. 571. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.**

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges

shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

**SEC. 572. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.**

(a) **GENERAL RULE.**—Part B of title XVIII of the Social Security Act is amended by inserting after section 1846 of such Act the following new section:

**“COMPETITION ACQUISITION FOR ITEMS AND SERVICES**

**“SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—**

“(1) **IN GENERAL.**—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1997. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

“(2) **CRITERIA FOR ESTABLISHMENT.**—The competitive acquisition areas established under paragraph (1) shall—

“(A) initially be within, or be centered around metropolitan statistical areas;

“(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

“(C) be chosen so as to not reduce access to such items and services to individuals, including those residing in rural and other underserved areas.

“(b) **AWARDING OF CONTRACTS IN AREAS.—**

“(1) **IN GENERAL.**—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

“(2) **CONDITIONS FOR AWARDED CONTRACT.**—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

“(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

“(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals, including those residing in rural and other underserved areas, is not reduced.

“(3) **CONTENTS OF CONTRACT.**—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

“(A) the quantity of items and services the entity shall provide; and

“(B) such other terms and conditions as the Secretary may require.

“(c) **SERVICES DESCRIBED.**—The items and services to which the provisions of this section shall apply are as follows:

“(1) Durable medical equipment and medical supplies.

“(2) Oxygen and oxygen equipment.

“(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.”.

(b) **ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.**—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)), as amended by section 566, is amended—

(1) by striking “or” at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting “; or”; and

(3) by inserting at the end the following new paragraph:

“(17) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.”.

(c) **REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.**—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (40 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction.

**SEC. 573. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.**

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking “Secretary may” both places it appears and inserting “Secretary shall”.

**SEC. 574. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.**

(a) **GENERAL RULE.**—Section 1834(a)(10)(B) of the Social Security Act (42 U.S.C. 1395m(a)(10)(B)) is amended by striking “paragraphs (8) and (9)” and all that follows through the end of the sentence and inserting “section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)”.

(b) **REPEAL OF OBSOLETE PROVISIONS.—**

(1) Section 1842(b)(8) of the Social Security Act (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking “(8)(A)” and inserting “(8)”, and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) of such Act (42 U.S.C. 1395u(b)(9)) is repealed.

(c) **PAYMENT FOR SURGICAL DRESSINGS.**—Section 1834(i) of the Social Security Act (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

“(3) **GROSSLY EXCESSIVE PAYMENT AMOUNTS.**—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.”.

**SEC. 575. EFFECTIVE DATE.**

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after July 6, 1996.

**CHAPTER 2—MEDICARE BILLING ABUSE PREVENTION****SEC. 581. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subtitle referred to as “ADPE”) meeting the requirements of section 582 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

**SEC. 582. MINIMUM SOFTWARE REQUIREMENTS.**

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subtitle shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

**SEC. 583. DISCLOSURE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 581(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 581(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

**SEC. 584. REVIEW AND MODIFICATION OF REGULATIONS.**

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 581.

**SEC. 585. DEFINITIONS.**

For purposes of this chapter—

(1) The term “automatic data processing equipment” (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term “billing code abuse” means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term “commercial item” has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term “medicare part B” means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term “medicare carrier” means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term “payment policies” means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term “Secretary” means the Secretary of Health and Human Services.

**HATCH AMENDMENT NO. 3499**

Mr. HATCH proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

Page 29, line 18, insert the following:

“*Provided further*, That no less than \$20,000,000 shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the police chief for law enforcement purposes, conditioned upon prior written consultation and notification being given to the chairman and ranking members of the House and Senate Committees on the Judiciary and Appropriations.”

**MCCONNELL (AND DOLE)  
AMENDMENT NO. 3500**

Mr. MCCONNELL (for himself and Mr. DOLE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 756, title III—Miscellaneous Provisions, strike Sec. 3001, beginning on line 14 “The President,” through line 25, ending “such restrictions.”

**COHEN (AND BUMPERS)  
AMENDMENT NO. 3501**

Mr. COHEN (for himself and Mr. BUMPERS) proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

In section 504 under the heading “Administrative Provisions—Legal Services Corporation—

(1) redesignate subsection (e) as subsection (f); and

(2) insert after subsection (d), the following new subsection:

“(e) Nothing in this section shall be construed to prohibit a recipient from using funds derived from a source other than the Legal Services Corporation to comment on public rulemaking or to respond to a written request for information or testimony from a Federal, State or local agency, legislative body or committee, or a member of such an

agency, body, or committee, so long as the response is made only to the parties that make the request and the recipient does not arrange for the request to be made.”

**FAIRCLOTH AMENDMENT NO. 3502**

Mr. FAIRCLOTH proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

On page 751, line 7, insert after “1974:” the following: “*Provided further*, That contracts to carry out programs using such funds shall, to the maximum extent practicable, be entered into with companies organized under the laws of a State of the United States and organizations (including community chests, funds, foundations, non-incorporated businesses, and other institutions) organized in the United States.”

**GORTON AMENDMENT NO. 3503**

Mr. GORTON proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

On page 405, line 17, strike “\$567,152,000” and insert in lieu thereof “\$567,753,000”.

On page 412, line 23, strike “\$497,670,000” and insert in lieu thereof “\$497,850,000”.

On page 419, line 22, strike “\$1,086,014,000” and insert in lieu thereof “\$1,084,755,000”.

On page 424, line 21, strike “\$729,995,000” and insert in lieu thereof “\$730,330,000”.

On page 428, line 6, strike “\$182,339,000” and insert in lieu thereof “\$182,771,000”.

On page 447, line 7, strike “\$56,456,000” and insert in lieu thereof “\$57,340,000”.

On page 447, line 13, strike “\$34,337,000” and insert in lieu thereof “\$34,516,000”.

On page 474, line 21, strike “\$416,943,000” and insert in lieu thereof “\$417,092,000”.

On page 475, line 21, strike “\$553,137,000” and insert in lieu thereof “\$553,240,000”.

On page 440, line 19, strike “March 31, 1996” and insert in lieu thereof “September 30, 1996”.

**STEVENS AMENDMENT NO. 3504**

Mr. GORTON (for Mr. STEVENS) proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

To the amendment numbered 3466: On page 740, line 6 of the bill, strike “\$34,800,000” and insert “\$37,300,000” in lieu thereof.

**KEMP THORNE AMENDMENT NO.  
3505**

Mr. GORTON (for Mr. KEMP THORNE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

To the amendment numbered 3466:

On page 740 of the bill, insert the following after line 3:

**“RESOURCE MANAGEMENT**

“For an additional amount for Resource Management, \$1,600,000, to remain available until expended, to provide technical assistance to the Natural Resource Conservation Service, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers and other agencies on fish and wildlife habitat issues relating to damage caused by floods, storms and other acts of nature: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire

amount is designated by Congress as an emergency requirement pursuant to section 251(b)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.”.

#### DASCHLE AMENDMENT NO. 3506

Mr. GORTON (for Mr. DASCHLE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

On page 480, line 14 after “*Provided*,” insert “That of the funds provided, \$800,000 shall be used for inhalant abuse treatment programs to treat inhalant abuse and to provide for referrals to specialized treatment facilities in the United States: *Provided further*,”.

#### GORTON AMENDMENT NO. 3507

Mr. GORTON (for Mr. HATFIELD) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

On page 744, beginning on line 1, strike “emergency” through “Mine” on line 2, and insert in lieu thereof the following: “response and rehabilitation, including access repairs, at the Amalgamated Mill”.

#### BOXER (AND MURRAY) AMENDMENT NO. 3508

Mrs. BOXER (for herself and Mrs. MURRAY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

On page 222, line 4, insert “Federal” before “funds”.

#### MIKULSKI AMENDMENT NO. 3509

Ms. MIKULSKI proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

Strike p. 692, line 21 through p. 696, line 2 and insert:

#### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES (INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the “Corporation”) in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the “Act”) (42 U.S.C. 12501 et seq.), \$400,500,000, of which \$265,000,000 shall be available for obligation from September 1, 1996, through September 30, 1997: *Provided*, That not more than \$25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): *Provided further*, That not more than \$2,500 shall be for official reception and representation expenses: *Provided further*, That not more than \$59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): *Provided further*, That not more than \$215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.)

(relating to activities including the Americorps program), of which not more than \$40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further*, That not more than \$5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further*, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): *Provided further*, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further*, That not more than \$18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further*, That not more than \$43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (41 U.S.C. 12521 et seq.): *Provided further*, that not more than \$30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further*, That not more than \$5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to \$500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-federal cost of supporting participants in community service activities: *Provided further*, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: *Provided further*, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal cost per participant in all programs.

#### SENSE OF SENATE

It is the Sense of the Congress that accounting for taxpayers' funds must be a top priority for all federal agencies and government corporations. The Congress is deeply concerned about the findings of the recent audit of the Corporation for National and Community Service required under the Government Corporation Control Act of 1945. The Congress urges the President to expeditiously nominate a qualified Chief Financial Officer for the Corporation. Further, to the maximum extent practicable and as quickly as possible, the Corporation should implement the recommendations of the inde-

pendent auditors contracted for by the Corporation's Inspector General, as well as the Chief Financial Officer, to improve the financial management of taxpayers' funds. Should the Chief Financial Officer determine that additional resources are needed to implement these recommendations, the Corporation should submit a reprogramming proposal for up to \$3,000,000 to carry out reforms of the financial management system.

#### HOUSING PROGRAMS

##### ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

On page 624 of the bill, line 10, strike “\$10,103,795,000” and insert “\$10,086,795,000”, and on page 626, line 23, strike “\$209,000,000” and insert “\$192,000,000”.

#### SIMON AMENDMENT NOS. 3510-3511

Mr. SIMON proposed two amendments to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, *supra*; as follows:

##### AMENDMENT No. 3510

On page 771, below line 17, add the following:

SEC. 3006. (a) Subsection (b) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding after paragraph (3), flush to the subsection margin, the following: “Notwithstanding any other provision of law, including the matter under the heading ‘NATIONAL SECURITY EDUCATION TRUST FUND’ in title VII of Public Law 104-61, the work of an individual accepting a scholarship or fellowship under the program shall be the work specified in paragraph (2), or such other work as the individual and the Secretary agree upon under an agreement having modified service requirements pursuant to subsection (f).”.

(b) Such section is further amended by adding at the end the following:

“(f) AUTHORITY TO MODIFY SERVICE AGREEMENT REQUIREMENTS.—The Secretary shall have sole authority to modify, amend, or revise the requirements under subsection (b) that apply to service agreements.”.

(c) Subsection (a) of such section is amended by adding at the end the following:

“(5) EMPLOYMENT OPPORTUNITY OUTREACH.—The Secretary shall take appropriate actions to make available to recipients of scholarships or fellowships under the program information on employment opportunities in the departments and agencies of the Federal Government having responsibility for national security matters.”.

##### AMENDMENT No. 3511

On page 582, line 14, strike “\$1,257,134,000” and insert “\$1,257,888,000”.

On page 582, line 16, before the semicolon insert the following: “, and of which \$5,100,000 shall be available to carry out title VI of the National Literacy Act of 1991”.

On page 582, line 16, strike “\$1,254,215,000” and insert “\$1,254,969,000”.

On page 587, line 15, strike “and III” and insert “III, and VI”.

On page 587, line 17, strike “\$131,505,000” and insert “\$139,531,000”.

On page 587, line 20, before the semicolon insert the following: “, and of which \$8,026,000 shall be available to carry out title VI of the Library Services and Construction Act and shall remain available until expended”.

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a) Section 428(n) of the Higher Education Act of 1965 (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

“(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting ‘or part D’ after ‘this part’.”.

(b) The amendment made by subsection (a) shall take effect on July 1, 1996.

On page 592, line 7, strike “\$196,270,000” and insert “\$201,294,000”.

On page 592, line 7, before the period insert the following: “, of which \$5,024,000 shall be available to carry out section 109 of the Domestic Volunteer Service Act of 1973”.

#### THOMAS (AND OTHERS) AMENDMENT NO. 3512

Mr. THOMAS (for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, and Mr. ROTH) submitted an amendment intended to be proposed by them to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019 supra; as follows:

At the appropriate place, insert the following:

#### SEC. . SENSE OF CONGRESS REGARDING MISSILE TESTS BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 8 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan.

(2) On March 5, 1996, the Xinhua News Agency announced that the People's Republic of China would conduct missile tests from March 8 through March 15, 1996, within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung.

(3) The proximity of these tests to the ports and the accompanying warnings for ships and aircraft to avoid the test areas is resulting in the effective disruption of the ports, and of international shipping and air traffic, for the duration of the tests.

(4) These tests are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan.

(5) Relations between the United States and the Peoples' Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means.

(6) The strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act.

(7) The Taiwan Act states that peace and stability in the western Pacific “are in the political, security, and economic interests of the United States, and are matters of international concern”.

(8) The Taiwan Relations Act states that the United States considers “any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States”.

(9) The Taiwan Relations Act directs the President to “inform Congress promptly of any threat to the security or the social or

economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom”.

(10) The Taiwan Relations Act further directs that “the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger”.

(11) The United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means.

(12) These missile tests and accompanying statements made by the Government of the People's Republic of China call into serious question the commitment of China to the peaceful resolution of the Taiwan question.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the United States deplores the missile tests that the People's Republic of China is conducting from March 8 through March 15, 1996, and views them as a potentially serious threat to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

(2) the Government of the People's Republic of China should cease its bellicose actions directed at Taiwan and instead enter into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Straits in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

(3) the President, consistent with section 3(c) of the Taiwan Relations Act (22 U.S.C. 3302(c)), should immediately consult with Congress on an appropriate United States response to the tests should the tests pose an actual threat to the peace, security, and stability of Taiwan; and

(4) the President should, consistent with the Taiwan Relations Act (22 U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened threat.

#### COATS (AND GRAMS) AMENDMENT NO. 3513

Mr. COATS (for himself and Mr. GRAMS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place insert the following:

#### SEC. . ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

#### “ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

“SEC. 245. (a) IN GENERAL.—The Federal Government, and any State that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

“(1) the entity refuses to undergo training in the performance of induced abortions, to provide such training, to preform such abortions, or to provide referrals for such training or such abortions;

“(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

“(3) the entity attends (or attended) a postgraduate physician training program, or any other program of training in the health professions, that does not (or did not) require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

“(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

“(1) IN GENERAL.—With respect to the State government involved, or the Federal Government, restrictions under subsection (a) include the restriction that, in granting a legal status to a health care entity (including a license or certificate) or in providing to the entity financial assistance, a service, or another benefit, the government may not require that the entity fulfill accreditation standards for a postgraduate physician training program, or that the entity have completed or be attending a program that fulfills such standards, if the applicable standards for accreditation of the program include the standard that the program must require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

“(2) RULES OF CONSTRUCTION.—

“(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

“(B) VOLUNTARY ACTIVITIES.—Nothing in this section shall be construed to—

“(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions;

“(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals or entities who have voluntarily elected to perform abortions; and

“(iii) affect Federal, State or local governmental reliance on standards for accreditation other than those related to the performance of induced abortions.

“(c) DEFINITIONS.—For purposes of this section:

“(1) The term ‘financial assistance’, with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

“(2) The term ‘health care entity’ includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

“(3) The term ‘postgraduate physician training program’ includes a residency training program.”.

#### PRESSLER AMENDMENT NO. 3514

Mr. BOND (for Mr. PRESSLER) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place insert the following:

Within its Mission to Planet Earth program, NASA is urged to fund Phase A studies for a radar satellite initiative.

#### BOND AMENDMENTS NOS. 3515-3517

Mr. BOND proposed three amendments to amendment No. 3466 proposed

by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

AMENDMENT No. 3515

On page 689, after line 26 of the Committee substitute, insert the following new section:

SEC. 17. (a) The second sentence of section 236(f)(1) of the National Housing Act, as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, is amended—

(1) by striking “or (ii)” and inserting “(ii)”; and

(2) by striking “located,” and inserting: “located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located.”.

(b) The first sentence of section 236(g) of the National Housing Act is amended by inserting the phrase “on a unit-by-unit basis” after “collected”.

On page 631, after the colon on line 24 of the Committee substitute, insert the following: “*Provided further*, That rents and rent increases for tenants of projects for which plans of action are funded under section 220(d)(3)(B) of LIHPRA shall be governed in accordance with the requirements of the program under which the first mortgage is insured or made (sections 236 or 221(d)(3) BMIR, as appropriate): *Provided further*, That the immediately foregoing proviso shall apply hereafter to projects for which plans of action are to be funded under such section 220(d)(3)(B), and shall apply to any project that has been funded under such section starting one year after the date that such project was funded.”.

AMENDMENT No. 3516

On page 637, line 20 of the Committee substitute, insert the following new proviso before the period: “: *Provided further*, That an additional \$30,000,000, to be derived by transfer from unobligated balances from the Homeownership and Opportunity for People Everywhere Grants (HOPE Grants) account, shall be available for use for grants for federally-assisted low-income housing, in addition to any other amount made available for this purpose under this heading, without regard to any percentage limitation otherwise applicable”.

AMENDMENT No. 3517

On page 779, after line 10, of the Committee Substitute, insert the following:

MANAGEMENT AND ADMINISTRATION  
DEPARTMENTAL RESTRUCTURING FUND

In addition to funds provided elsewhere in this Act, \$20,000,000, to remain available until September 30, 1997, to facilitate the down-sizing, streamlining, and restructuring of the Department of Housing and Urban Development, and to reduce overall departmental staffing to 7,500 full-time equivalents in fiscal year 2000: *Provided*, That such sum shall be available only for personnel training (including travel associated with such training), costs associated with the transfer of personnel from headquarters and regional offices to the field, and for necessary costs to acquire and upgrade information system infrastructure in support of Departmental field staff: *Provided further*, That not less than 60 days following enactment of this Act, the Secretary shall transmit to the Appropriations Committees of the Congress a report which specifies a plan and schedule for the utilization of these funds for personnel reductions and transfers in order to reduce headquarters on-board staffing levels to 3,100 by December 31, 1996, and 2,900 by October 1, 1997: *Provided further*, That by February 1, 1997 the Secretary shall certify to the Congress that headquarters on-board staffing

levels did not exceed 3,100 on December 31, 1996 and submit a report which details obligations and expenditures of funds made available hereunder: *Provided further*, That if the certification of headquarters personnel reductions required by this act is not made by February 1, 1997, all remaining unobligated funds available under this paragraph shall be rescinded.

CLARIFICATION OF BLOCK GRANTS IN NEW YORK

(a) All funds allocated for the State of New York for fiscal years 1995, 1996, and all subsequent fiscal years, under the HOME investment partnerships program, as authorized under title II of Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) shall be made available to the Chief Executive Officer of the State, or an entity designated by the Chief Executive Officer, to be used for activities in accordance with the requirements of the HOME investment partnerships program, notwithstanding the Memorandum from the General Counsel of the Department of Housing and Urban Development dated March 5, 1996.

(b) The Secretary of Housing and Urban Development shall award funds made available for fiscal year 1996 for grants allocated for the State of New York for a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in accordance with the requirements established under the Notice of Funding Availability for fiscal year 1995 for the New York State Small Cities Community Development Block grant program.

LAUTENBERG AMENDMENT NO.  
3518

Mr. LAUTENBERG proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of title III, insert:

SEC. . Section 347(b)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (P.L. 104-50), is amended to read as follows:

“(3) chapter 71, relating to labor-management relations.”.

GRAMM AMENDMENT NO. 3519

Mr. GRAMM proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of the committee substitute, insert the following:

“Notwithstanding any other provision of this Act, no part of any appropriation contained in this Act which is subject to the provisions of section 4002 shall be made available for obligation or expenditure.”.

WELLSTONE (AND OTHERS)  
AMENDMENT NO. 3520

Mr. WELLSTONE (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. KERRY, Mr. LEAHY, Ms. SNOWE, Mr. SANTORUM, Mr. KENNEDY, Mr. GLENN, and Mr. PELL) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place, insert the following:

The Senate finds that:

Record low temperatures across the country this winter, coupled with record snowfalls in many areas, have generated substantial and sustained demand among eligible low-income Americans for home heating

assistance, and put many who face heating-related crises at risk;

Home heating assistance for working and low-income families with children, the elderly on fixed incomes, the disabled, and others who need such help is a critical part of the social safety net in cold-weather areas;

The President has released approximately \$900 million in regular Low Income Energy Assistance Program (LIHEAP) funding for this year, compared to a funding level of \$1.319 billion last year, and a large LIHEAP funding shortfall remains which has adversely affected eligible recipients in many cold-weather states;

LIHEAP is a highly targeted, cost-effective way to help approximately 6 million low-income Americans to pay their energy bills. More than two-thirds of LIHEAP-eligible households have annual incomes of less than \$8,000; more than one-half have annual incomes below \$6,000.

LIHEAP program funding has been substantially reduced in recent years, and cannot sustain any further spending cuts if the program is to remain a viable means of meeting the home heating and other energy-related needs of low-income people in cold-weather states;

Traditionally, LIHEAP has received advance appropriations for the next fiscal year. This allows states to properly plan for the upcoming winter and best serve the energy needs of low income families.

Congress was not able to pass an appropriations bill for the Departments of Labor, Health and Human Services, and Education by the beginning of this fiscal year and it was only because LIHEAP received advance appropriations last fiscal year that the President was able to release the \$578 million he did in December—the bulk of the funds made available to the states this winter.

There is currently available to the President up to \$300 million in emergency LIHEAP funding, which could be made available immediately, on a targeted basis, to meet the urgent home heating needs of eligible persons who otherwise could be faced with heating-related emergencies, including shut-offs, in the coming weeks;

Therefore, it is the sense of the Senate that:

(a) the President should release immediately a substantial portion of available emergency funding for the Low Income Home Energy Assistance Program for FY 1996, to help meet continuing urgent needs for home heating assistance during this unusually cold winter; and

(b) not less than the \$1 billion in regular advance-appropriated LIHEAP funding for next winter provided for in this bill should be retained in a House-Senate conference on this measure.

MCCAIN AMENDMENTS NOS. 3521–  
3522

Mr. BOND (for Mr. MCCAIN) proposed two amendments to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

AMENDMENT No. 3521

On page 756, between lines 10 and 11, insert the following:

SEC. 1103. ALLOCATION OF FUNDS.

Notwithstanding chapters 2, 4, and 6 of this title—

(1) funds made available under this title for economic development assistance programs of the Economic Development Administration shall be made available to the general fund of the Administration to be allocated in accordance with the established competitive prioritization process of the Administration;

(2) funds made available under this title for construction by the United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the Service; and

(3) funds made available under this title for community development grants by the Department of Housing and Urban Development shall be allocated in accordance with the established prioritization process of the Department.

#### AMENDMENT NO. 3522

#### SEC. . PLAN FOR ALLOCATION OF HEALTH CARE RESOURCES BY DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care facilities of the Department so as to ensure that veterans having similar economic status, eligibility priority and, or, similar medical conditions who are eligible for medical care in such facilities have similar access to such care in such facilities regardless of the region of the United States in which such veterans reside.

(2) The Plan shall reflect, to the maximum extent possible, the Veterans Integrated Service Network, as well as the Resource Planning and Management System developed by the Department of Veterans Affairs to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care, and shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goals through the plan.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

(d) PLAN IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) within 60 days of submitting such plan to Congress under subsection (b), unless within such period the Secretary notifies the appropriate Committees of Congress that such plan will not be implemented along with an explanation of why such plan will not be implemented.

#### WARNER AMENDMENT NO. 3523

Mr. WARNER proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of title I of section 101(b), add the following:

SEC. 156. None of the funds provided in this Act may be used directly or indirectly to implement or enforce any rule of ordinance of the District of Columbia Taxicab Commission that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland.

#### MURKOWSKI (AND STEVENS) AMENDMENT NO. 3524

Mr. MURKOWSKI (for himself and Mr. STEVENS) proposed an amendment

to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page . beginning with line , insert the following:

#### SEC. . SEAFOOD SAFETY.

(a) Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995) or produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of such regulations, shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

#### MURKOWSKI AMENDMENT NO. 3525

Mr. MURKOWSKI proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

#### SECTION 1.

(a) SHORT TITLE.—This section may be cited as the "Greens Creek Land Exchange Act of 1996".

(b) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

(c) DEFINITIONS.—As used in this section—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96-487 (94 Stat. 2371);

(3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;

(4) the term "Greens Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State

of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

(d) RATIFICATION OF THE AGREEMENT.—The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

#### (e) IMPLEMENTATION OF THE AGREEMENT.—

(1) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(2) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the "Greens Creek Land Exchange Account" into which shall be deposited the first \$5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to paragraph (3) of this subsection. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to paragraph (1) of this subsection.

(3) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(4) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(5) ADMINISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(6) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(7) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this section shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

(f) RECISION RIGHTS.—Within 60 days of the enactment of this section, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this section. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply

#### THURMOND (AND OTHERS) AMENDMENT NO. 3526

Mr. WARNER (for Mr. THURMOND, for himself, Mr. NUNN, Mr. WARNER, Mr. COHEN, Mr. LOTT, Mr. SMITH, Mr. COATS, Mr. SANTORUM, Mr. INHOFE, Mr. EXON, Mr. ROBB, Mr. BRYAN, and Mr. KEMPTHORNE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 754, line 4, strike out the period at the end and insert in lieu thereof “: *Provided further*, That the authority under this section may not be used to enter into a multiyear procurement contract until the day after the date of the enactment of an Act (other than an appropriations Act) containing a provision authorizing a multiyear procurement contract for the C-17 aircraft.”.

#### HATFIELD (AND OTHERS) AMENDMENT NO. 3527

Mr. WARNER (for Mr. HATFIELD, for himself, Mr. DOLE, Mr. DASCHLE, Mr. MCCONNELL, Mr. LAUTENBERG, and Mr. LEAHY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

To the substitute on page 750, between lines 18 and 19, add the following:

#### UNANTICIPATED NEEDS

##### UNANTICIPATED NEEDS FOR DEFENSE OF ISRAEL AGAINST TERRORISM

For emergency expenses necessary to meet unanticipated needs for the acquisition and provision of goods, services, and/or grants for Israel necessary to support the eradication of terrorism in and around Israel, \$50,000,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for obligation except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### BURNS AMENDMENT NO. 3528

Mr. BURNS proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place insert the following:

#### SEC. . CONTINUED OPERATION OF AN EXISTING HYDROELECTRIC FACILITY IN MONTANA.

(a) Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other law requiring payment to the United

States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act (16 U.S.C. 792 et seq.) for project numbered 1473, provided that the current licensee receives no payment or consideration for the transfer of the license a political subdivision of the State of Montana that accepts the license—

(1) shall not be required to pay such charges during the 5-year period following the date of acceptance; and

(2) after that 5-year period, and for so long as the political subdivision holds the license, shall not be required to pay such charges that exceed 100 percentum of the net revenues derived from the sale of electric power from the project.

(b) The provisions of subsection (a) shall be effective if:

(1) a competing license application is filed within 90 days of the date of enactment of this act, or

(2) the Federal Energy Regulatory Commission issues an order within 90 days of the date of enactment of this act which makes a determination that in the absence of the reduction in charges provided by subsection (a) the license transfer will occur.

#### BURNS (AND OTHERS) AMENDMENT NO. 3529

Mr. BURNS (for himself, Mr. REID, Mr. BAUCUS, Mr. CAMPBELL, Mr. PRESSLER, and Mr. DASCHLE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a)(1) From any unobligated funds that are available to the Secretary of Education to carry out section 5 or 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on September 30, 1994) not less than \$11,500,000 shall be available to the Secretary of Education to carry out subsection (b).

(2) Any unobligated funds described in paragraph (1) that remain unobligated after the Secretary of Education carries out such paragraph shall be available to the Secretary of Education to carry out section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707).

(b)(1) The Secretary of Education shall award the funds described in subsection (a)(1) to local educational agencies, under such terms and conditions as the Secretary of Education determines appropriate, for the construction of public elementary or secondary schools on Indian reservations or in school districts that—

(A) the Secretary of Education determines are in dire need of construction funding;

(B) contain a public elementary or secondary school that serves a student population which is 90 percent Indian students; and

(C) serve students who are taught in inadequate or unsafe structures, or in a public elementary or secondary school that has been condemned.

(2) A local educational agency that receives construction funding under this subsection for fiscal year 1996 shall not be eligible to receive any funds under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for school construction for fiscal years 1996 and 1997.

(3) As used in this subsection, the term “construction” has the meaning given that term in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)).

(4) No request for construction funding under this subsection shall be approved unless the request is received by the Secretary of Education not later than 30 days after the date of enactment of this Act.

#### BURNS AMENDMENT NO. 3530

Mr. BURNS proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of the amendment add the following:

Subtitle B—Commission on Restructuring the Circuits of the United States Courts of Appeals

#### SEC. 921. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on restructuring for the circuits of the United States Courts of Appeals which shall be known as the “Heflin Commission” (hereinafter referred to as the “Commission”).

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the restructuring of the circuits of the United States Courts of Appeals; and

(2) report to the President and the Congress on its findings.

#### SEC. 922. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of twelve members appointed as follows:

(1) Three members appointed by the President of the United States.

(2) Three members appointed by the President pro tempore of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but three may conduct hearings.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman.

#### SEC. 923. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### SEC. 924. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government